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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 RAYMOND SUERO-PERALTA,)

11 Petitioner,)

12 v.)

13 UNITED STATES OF AMERICA,)

14 Respondent.)
15 _____)

CASE NO. C07-850-RSL-MJB
(CR90-57-RSL)

REPORT AND RECOMMENDATION

16 Petitioner Raymond Suero-Peralta is a federal prisoner who is currently incarcerated at the
17 United States Penitentiary in Lompoc, California. On June 1, 2007, the Court received from
18 petitioner a document entitled "Motion to the Court to Exercise Its Inherent Authority to Dismiss Its
19 Own Judgment as Void and Motion for Declaratory Judgment Under Title 28 U.S.C. § 2201."
20 Petitioner's motion presents a challenge to the validity of the guilty plea he entered in cause number
21 CR90-57, before the Honorable Carolyn R. Dimmick, United States District Judge, in October 1991.
22 (See Dkt. No. 1.) Specifically, petitioner asserts that his guilty plea was rendered invalid when Judge
23 Dimmick failed to advise him of the possibility that his federal sentence might run consecutively to a
24 state sentence which had yet to be imposed. (*Id.*) Petitioner argues that a consecutive federal
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1 sentence is a direct consequence of a guilty plea entered by a defendant against whom state charges
2 are pending, and that the court had a duty to inform petitioner of these direct consequences.¹ (Dkt.
3 No. 1.)

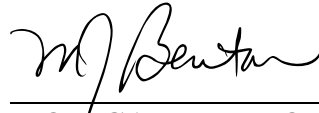
4 On June 28, 2007, this Court received from petitioner an amendment to his original motion
5 (Dkt. No. 5) and, on July 3, 2007, the Court received a letter from petitioner by way of which he
6 sought to clarify his amendment (Dkt. No. 6). Petitioner does not assert in these documents, as he
7 did in his original motion, that his plea was rendered invalid by Judge Dimmick's failure to advise
8 him of certain direct consequences of his guilty plea. Instead, petitioner appears to assert that the
9 United States Bureau of Prisons has improperly calculated his current term of imprisonment.
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11 It appears from the record before this Court that petitioner's sentence under cause number
12 CR00-57-RSL has expired. (CR00-57-RSL, Dkt. No. 228.) Petitioner identifies no authority which
13 would permit this Court to exercise jurisdiction over petitioner's challenge to the validity of his
14 guilty plea given that the sentence imposed for that offense has long since expired. To the extent
15 petitioner may seek to challenge the manner in which the Bureau of Prisons has calculated his
16 sentence, petitioner's challenge is properly brought in a petition pursuant to 28 U.S.C. § 2241 and
17 must be addressed to the district court having jurisdiction over petitioner or his custodian. *See*
18 *Doganier v. United States*, 914 F.2d 165, 169-70 (9th Cir. 1990).
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23 ¹ The facts alleged by petitioner in support of his motion indicate that he entered a guilty plea
24 to charges originating in the Los Angeles County Superior Court in July 1990, and that he was
25 transferred into federal custody before sentence was imposed in that case. (*See* Dkt. No. 1 at 2-3.
26 Petitioner was sentenced in the California case, in absentia, after he entered his guilty plea and was
sentenced in this Court. (*See id.* at 3-4.) The sentencing judge in petitioner's California case ordered
that his state sentence run concurrent to any federal sentence. (*Id.* at 20.)

1 For the foregoing reasons, this Court recommends that petitioner's instant motion be denied
2 and that this action be dismissed with prejudice. A proposed order accompanies this Report and
3 Recommendation.

4 DATED this 20th day of August, 2007.

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7 MONICA J. BENTON
8 United States Magistrate Judge
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